

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

JANE DOE,

Plaintiff,

v.

No. 4:22-cv-00301-SRW

OFFICER CHRISTOPHER E.
KOESTER, COLONEL KENNETH L.
GREGORY, OFFICER MARK D. E
BERWEIN, OFFICER BRIAN GAILIS,
OFFICER DEBORAH K. HUMPHREY,
SERGEANT GARY L. ROBERTSON,
OFFICER JEFFREY R. EMGE,
OFFICER JACOB B. BROCK,
OFFICER NICOLE GENTRY, LISA
FLAMION, OFFICER MATHEW DEES,
LIEUTENANT JEREMY F. ROMO,
LITTLE HILLS HEALTHCARE, LLC
d/b/a/ CENTERPOINTE HOSPITAL, ST.
LOUIS COUNTY POLICE
DEPARTMENT, ST. LOUIS COUNTY,
DR. SAM PAGE, M.D., SHAZIA MALIK,
M.D., SSM HEALTH CARE ST. LOUIS,
AZFAR MALIK, M.D., BARRY
KLEVENE, M.D., JOHN DOE 1, JOHN
DOE 2 and JOHN DOE 3.

Defendants.

MOTION FOR LEAVE TO FILE ANSWER OUT OF TIME

COME NOW Defendants Azfar Malik, M.D. and Shazia Malik, M.D., by and through their undersigned counsel, Sandberg Phoenix & von Gontard P.C., and for their Motion for Leave to File Answer and Affirmative Defenses Out of Time, hereby state as follows:

1. On March 14, 2022, Plaintiff Jane Doe filed this lawsuit against numerous defendants, including Azfar Malik, M.D. and Shazia Malik, M.D.

2. Upon information and belief, Dr. Shazia Malik was served with the Complaint in this matter on or around March 27, 2022. [Doc. 4-16].

3. Similarly, upon information and belief, the summons and Complaint were left at Dr. Azfar Malik's residence on or around March 27, 2022. [Doc. 4-1].

4. Due to an inadvertent error in communication regarding service, undersigned counsel was not aware of the date of service until after Defendants' 21-day response deadline had lapsed. Therefore, no responsive pleading was filed by the April 18, 2022, deadline.

5. As a result, Defendants are seeking a 21-day extension of time to file their responsive pleadings, up to and including May 16, 2022.

6. Once undersigned counsel received the returned executed summons filed with the Court which contained the date of service, undersigned counsel reached out to Plaintiff's counsel regarding their request for an extension of time to file Dr. Azfar Malik and Dr. Shazia Malik's responsive pleadings out of time.

7. Undersigned counsel has not received a response from Plaintiff's counsel at the time of this filing.

8. This Motion is filed in good faith and not for the purposes of undue delay.

9. No party will be prejudiced as a result of this brief lapse in time, as numerous co-defendants filed a Motion for Extension of Time to File Response which was granted. [Docs. 5, 7]. As such, most Defendants have not yet filed their answers which are now not due until May 12, 2022. Another co-defendant just recently filed their Motion to Dismiss on April 18, 2022. [Docs. 11-12].

10. No scheduling order has been entered and no default judgment has been sought or entered against these Defendants as of the date of filing.

11. Further, just cause exists for this request as Defendants Dr. Azfar Malik and Dr. Shazia Malik intend to defend against Plaintiff's allegations, including asserting affirmative and merit-based defenses in good faith.

12. Defendants Dr. Azfar Malik and Dr. Shazia Malik request this Court grant them leave to file their responsive pleadings out of time, up to and including May 16, 2022.

WHEREFORE, Defendants Azfar Malik, M.D. and Shazia Malik, M.D. pray that this Honorable Court grant their Motion, grant them leave to file their Answer and Affirmative Defenses out of time, and for all other relief that may be deemed just and proper.

SANDBERG PHOENIX & von GONTARD P.C.

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*Attorneys for Defendants Azfar Malik, M.D. and
Shazia Malik, M.D.*

Certificate of Service

I hereby certify that on the 26th day of April 2022 the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

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/s/Abbey A. Fritz
